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REMARKS

IN THE SENATE OF THE UNITED STATES,

JANUARY 31, 1855,

VINDICATING THE LATE JAMES A. BAYARD,

OF DELAWARE.

AND REFUTING THE GROUNDLESS CHARGES CONTAINED IN
THE "ANAS" OF THOMAS JEFFERSON,

ASPERSING HIS CHARACTER.





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Hon. J. F. Bayard

By reason of the fact that the statements contained in the entry in Jefferson's Diary of February 12, 1801, concerning my great-grandfather, James A. Bayard, have recently been republished in a newspaper in this City, I deem it proper at this time, to make publication of the accompanying pamphlet, in order that the charges in the Diary above referred to, may again be shown to be false.

THOMAS F. BAYARD.

Wilmington, Delaware.

May 25, 1907.

VINDICATION.

Mr. BAYARD said: Mr. President, since I have been a member of the Senate, under no circumstances have I had occasion to ask the indulgence of the body for the purpose of remarks upon any subject having a personal relation to myself; but I feel authorized to ask that indulgence now, both from my position as a Senator from the State of Delaware, and a sense of duty to the memory of a parent who has left no undistinguished name in his country's annals.

My purpose is, by a succinct statement of facts, and the submission of documents sustaining that statement, to repel and refute two utterly groundless aspersions upon the memory of my father, (the late James A. Bayard, of Delaware,) contained in the "Anas" of Thomas Jefferson, as published under the authority of Congress. A copy of the works of Mr. Jefferson was delivered to me, as a member of the Senate, at the commencement of the present session; and, in running over them, I found that two charges, reflecting upon the character of my father, which were published in the first edition of Mr. Jefferson's works, were retained in the edition published by the authority of Congress. In a note, at page 87, of the ninth volume, the editor assigns the reasons why he "did not feel at liberty" to exclude, what he denominates "the celebrated Anas" from the publication. I mean to imply no censure upon him for retaining them, though I might have arrived at a different conclusion; and I doubt not that he exercised an honest dis-

cretion. But the very fact that, in this publication made under the authority of Congress the two charges to which I allude, though previously refuted, have been retained without the slightest notice of that refutation, renders it more appropriate—indeed, imperative—that I should thus publicly repel any statement contained in that publication aspersing the character of one of the most distinguished citizens of my State, and of a father around whose memory my best affections are clustered; whose stainless character affords some consolation to his children for his early death.

Mr. President, when the first publication of the works of Mr. Jefferson was made, in 1830, my friend and colleague, who had just entered the Senate of the United States, having his attention attracted to *one* of the misrepresentations contained in these “Anas,” with a promptitude and sincerity, and depth of feeling, which I can never forget, called the attention to the passage of two Senators (then most fortunately members of this body) on whose alleged authority *this* misrepresentation is founded, and it was then, by their testimony, publicly refuted.

The second misrepresentation, however, escaped his notice, but the publication of what had occurred in the Senate, brought the writings of Mr. Jefferson, for the first time, within the knowledge of my brother, Richard H. Bayard, (one of my predecessors in this body) and myself.

We found the second misrepresentation in another part of the “Anas,” and, subsequently, after months of inquiries, were enabled to obtain documentary testimony utterly demolishing both these aspersions upon our father’s memory.

We published this testimony in December, 1830, in a newspaper in Philadelphia, and also, in pamphlets; but such a mode of refutation being of a perishable nature, and the works of Mr. Jefferson having been republished under the authority of Congress, it is requisite that the refutation should be made in a more public and more enduring form.

The first charge will be found in the ninth volume of the congressional edition of Mr. Jefferson's works, page 202.

It is in these words :

“February 12, 1801.—Edward Livingston tells me that Bayard applied to-day, or last night, to General Samuel Smith, and represented to him the expediency of his coming over to the States who vote for Burr; that there was nothing in the way of appointment which he might not command, and particularly mentioned the Secretaryship of the Navy. Smith asked him if he was authorized to make the offer. He said he was authorized. Smith told this to Livingston and to W. C. Nicholas, who confirms it to me.”

In answer to this charge, I shall first read the remarks in the Senate at the time my colleague brought it to the notice of Messrs. Smith and Livingston; then the deposition of my father made in 1805, in a suit for libel brought by Aaron Burr, against James Cheetham, and a letter written by him to General Hamilton, on the 7th of January, 1801. I shall also refer to a letter from Colonel Burr to General Smith, a copy of which is given in the deposition of General Smith in the case of James Gillespie against Abraham Smith, which deposition I shall read hereafter in refutation of the second charge made by Mr. Jefferson.

REMARKS IN THE SENATE.

“The Senate resumed the consideration of the resolution moved by Mr. FOOT respecting surveys of the public lands.

“Mr. BENTON being entitled to the floor—

“Mr. CLAYTON said, that he desired the permission of the Senator from Missouri, [Mr. BENTON,] who was entitled to the floor, to call the attention of two of the honorable members of this body, Mr. SMITH, of Maryland, and Mr. LIVINGSTON, of Louisiana, to a passage in a book which had been cited in this debate by the Senator from South Carolina, [Mr. HAYNE,] as authority on another subject. He did not rise for the purpose of discussing the resolution itself. In the wide range of the debate here, the northeastern and southern sections of the country had been arrayed against each other. He listened to the discussion without any intention of participating in it, while the State which he had the honor in part to represent, had escaped unscathed by the controversy. Though favorable to the resolution, as a mere proposition to inquire, he felt but little interest in such contentions between the North and South; and his only desire in relation to that subject, was, that the warmth

of the discussion might have no tendency to alienate one portion of the country from the other. But his attention had been called by a number of members of this House, to a passage in the same book, another part of which had been referred to by the Senator from South Carolina. That passage charged an illustrious statesman, who formerly occupied the seat of a Senator here, and whose memory and fame were dear to himself and to the people he represented, with atrocious corruption, of which, he was convinced that great and good man could never have been guilty; and as the witnesses referred to in the book itself were present, and ready to give testimony to set the charge at rest, he hoped he should be pardoned for referring to the objectional passage in their presence.

“He then read, from the fourth volume of Jefferson’s *Memoirs*, page 515, (the same volume which had been brought into the Senate by General Hayne,) the following passage :

“*February the 12th, 1801.*—Edward Livingston tells me that Bayard applied to-day, or last night, to General Samuel Smith, and represented to him the expediency of coming over to the States who vote for Burr; that there was nothing in the way of appointment which he might not command, and particularly mentioned the Secretaryship of the Navy. Smith asked him if he was authorized to make the offer. He said he was authorized. Smith told this to Livingston, and to W. C. Nicholas, who confirms it to me,’ &c.

“He then called upon the Senators from Maryland and Louisiana, referred to in this passage, to disprove the statement here made.

“Mr. SMITH, of Maryland, rose and said, that he had read the paragraph before he came here to-day, and was, therefore, aware of its import. He had not the most distant recollection that Mr. Bayard had ever made such a proposition to him. Mr. Bayard, said he, and myself, though politically opposed, were intimate personal friends, and he was an honorable man. Of all men Mr. Bayard would have been the last to make such a proposition to any man; and I am confident that he had too much respect for me, to have made it, under any circumstances. I never received from any man any such proposition.

“Mr. LIVINGSTON, of Louisiana, said that, as to the precise question which had been put to him by the Senator from Delaware, he must say, that having taxed his recollection, as far as it could be on so remote a transaction, he had no remembrance of it.”

DEPOSITION OF J. A. BAYARD.

The deposition of James A. Bayard, sworn and examined on the twenty — day of —, in the year of our Lord one thousand eight hundred and five, at Wilmington, in the State of Delaware, by virtue of a commission issuing out of the supreme court of judicature in the State of New York, to John Vaughan, directed for the examination of the said James A. Bayard, in a cause there depending between Aaron Burr, plaintiff, and James Cheetham, defendant, on the part and behalf of the defendant.

1st. To the first interrogatory this deponent answers and says: As a member of the House of Representatives I paid a visit of ceremony to the plaintiff on the 4th of March, in the year one thousand eight hundred and one, and was introduced to him. I had no acquaintance with him before that period. I had no knowledge of the defendant but what was derived from his general reputation before the last session of Congress, when a personal acquaintance commenced upon my becoming a member of the Senate.

2d. To the second interrogatory this deponent saith: I was.

3d. To the third interrogatory this deponent saith: There was an equality of electoral votes for Mr. Jefferson and Mr. Burr, and the choice of one of them did, of consequence, devolve on the House of Representatives.

4th. To the fourth interrogatory this deponent saith: The House, resolved into States, balloted for a President a number of times—the exact number is not at present in my recollection—before a choice was made. The frequency of balloting was occasioned by the preference given by the Federal side of the House to Mr. Burr. With the exception of Mr. Huger, of South Carolina, I recollect no Federal member, who did not concur in the general course of balloting for Mr. Burr. I cannot name each member. The Federal members, at that time, composed a majority of the House, though not of the States. Their names can be ascertained by the Journals of the House of Representatives.

5th. To the fifth interrogatory this deponent saith: I know of no measures but those of argument and persuasion which were used to secure the election of Mr. Burr to the Presidency. Several gentlemen of the Federal party doubted the practicability of electing Mr. Burr, and the policy of attempting it. Before the election came on, there were several meetings of the party to consider the subject. It was frequently debated; and most of the gentlemen who had adopted a decided opinion in favor of his election, employed their influence and address to convince those who doubted, of the propriety of the measure. I cannot tell whether Mr. Burr was acquainted with what passed at our meetings. But I neither knew nor heard of any letter being written to him on the subject. He never informed me, nor have I reason to believe, further than inference from the open professions, and public course pursued by the Federal party, that he was apprised that an attempt would be made to secure his election.

6th. To the sixth interrogatory the deponent saith: Mr. Burr, or any person on his behalf, never did communicate to me, in writing or otherwise, nor to any other persons of which I have any knowledge, that any measures had been suggested, or would be pursued, to secure his election. Preceding the day of the election, in the course of the session, the Federal members of Congress had a number of general meetings, the professed and sole purpose of which was to consider the propriety of giving their support to the election of Mr. Burr. The general sentiment of the party was strongly in his favor. Mr. Huger, I think, could not be brought to vote for him. *Mr. Craik and Mr. Baer, of Maryland, and myself, were those who acquiesced with the greatest difficulty and hesitation. I did not believe Mr. Burr could be elected, and thought it vain to make the attempt. But I was chiefly influenced by the current of public sentiment, which I thought it neither safe nor politic to counteract. It was,*

however, determined by the party without consulting Mr. Burr, to make the experiment, whether he could be elected. Mr. Ogden never was authorized nor requested by me, nor any member of the House, to my knowledge, to call upon Mr. Burr, and to make any propositions to him of any kind or nature. I remember Mr. Ogden's being at Washington, while the election was depending. I spent one or two evenings in his company at Stiller's hotel, in small parties, and we recalled an acquaintance of very early life, which had been suspended by a separation of eighteen or twenty years. I spent not a moment with Mr. Ogden in private. It was reported that he was an agent for Mr. Burr, or it was understood that he was in possession of declarations of Mr. Burr, that he would serve as President if elected. I never questioned him on the subject. Although I considered Mr. Burr personally better qualified to fill the office of President than Mr. Jefferson, yet for a reason above suggested, I felt no anxiety for his election, and I presumed if Mr. Ogden came on any errand from Mr. Burr, or was desirous of making any disclosure relative to his election, he would do it without any application from me. But Mr. Ogden or any other person never did make any communication to me from Mr. Burr, nor do I remember having any conversation with him relative to the election. *I never had any communication directly or indirectly with Mr. Burr in relation to his election to the Presidency. I was one of those who thought from the beginning that the election of Mr. Burr was not practicable. The sentiment was freely and openly expressed.* I remember it was generally said by those who wished a perseverance in the opposition to Mr. Jefferson, that several Democratic States were more disposed to vote for Mr. Burr than for Mr. Jefferson. That out of complaisance to the known intention of the party they would vote a decent length of time for Mr. Jefferson, and as soon as they could excuse themselves by the imperious situation of affairs, would give their votes for Mr. Burr, the man they really preferred. The States relied upon for this change were New York, New Jersey, Vermont, and Tennessee. I never however, understood that any assurance to this effect came from Mr. Burr. Early in the election it was reported that Mr. Edward Livingston, the Representative of the city of New York, was the confidential agent of Mr. Burr and that Mr. Burr had committed himself entirely to the discretion of Mr. Livingston, having agreed to adopt all his acts. I took an occasion to sound Mr. Livingston on the subject, and intimated that, having it in my power to terminate the contest, I should do so, unless he could give me some assurance that we might calculate upon a change in the votes of some of the members of his party. Mr. Livingston stated that he felt no great concern as to the event of the election, but he disclaimed any agency from Mr. Burr, or any connection with him on the subject, and any knowledge of Mr. Burr's designing to cooperate in support of his election.

7th. The deponent answering that part of the seventh interrogatory, which relates to letters received from the late Alexander Hamilton, says: I did receive, in the course of the winter of 1801, several letters from General Hamilton upon the subject of the election, but the name of David A. Ogden is not mentioned in any of them. The general design and effect of these letters was to persuade me to vote for Mr. Jefferson, and not for Mr. Burr. The letters contain very strong reasons and a very earnest opinion against the election of Mr. Burr. In answer to the residue of

the same interrogatory, the deponent saith: I repeat that I know of no means used to promote the election of Mr. Burr, but persuasion. I am wholly ignorant of what the plaintiff was apprised of in relation to the election, as I had no communication with him, directly or indirectly; and as to the expectations of a change of votes from Mr. Jefferson to Mr. Burr, I never knew of a better ground for it than the opinions and calculations of a number of members.

8th. In answer to the eighth interrogatory, the deponent saith: I know of nothing which, in my opinion, can be of service to the defendant in the cause.

To the interrogatory on the part of the plaintiff, the deponent answers: Having yielded with Messrs. Craik and Baer, of Maryland, to the strong desire of the great body of the party with whom we usually acted, and agreed to vote for Mr. Burr, and those gentlemen and myself being governed by the same views and motives, we pledged ourselves to each other to pursue the same line of conduct, and act together. We felt that *some concession* was due to the judgment of a great majority of our political friends, who differed from us in opinion, but we determined that no consideration should make us lose sight for a moment of the necessity of a President being chosen. We therefore resolved that as soon as it was fairly ascertained that Mr. Burr could not be elected, to give our votes to Mr. Jefferson. General Morris, of Vermont, shortly after acceded to this arrangement. The result of the ballot of the States had uniformly been eight States for Mr. Jefferson, six for Mr. Burr, and two divided. Mr. Jefferson wanted the vote of one State only; those three gentlemen belonged to the divided States, I held the vote of the State of Delaware; it was therefore in the power of either of us to terminate the election. Those gentlemen knowing the strong interest of my State to have a President, and knowing the sincerity of my determination to make one, left it to me to fix the time when the opposition should cease, and to make terms, if any could be accomplished, with the friends of Mr. Jefferson. I took pains to disclose this state of things in such a manner, that it might be known to the friends of Mr. Burr, and to those gentlemen who were believed to be most disposed to change their votes in his favor. I repeatedly stated to many gentlemen with whom I was acting, that it was a vain thing to protract the election, as it had become manifest that Mr. Burr would not assist us; and, as we could do nothing without his aid, I expected, under these circumstances, if there were any latent engines at work in Mr. Burr's favor, the plan of operations would be disclosed to me. But, although I had the power, and threatened to terminate the election, I had not even an intimation from any friend of Mr. Burr's, that it would be desirable to them to protract it. I never did discover that Mr. Burr used the least influence to promote the object we had in view. And being completely persuaded that Mr. Burr would not cooperate with us, I determined to end the contest by voting for Mr. Jefferson. I publicly announced the intention which I designed to carry into effect the next day. In the morning of the day there was a general meeting of the party, where it was generally admitted that Mr. Burr could not be elected; but some thought it was better to persist in our vote, and to go without a President rather than to elect Mr. Jefferson. The greater number, however,

wished the election terminated, and a President made; and, in the course of the day, the manner was settled, which was afterwards adopted, to end the business.

Mr. Burr, probably, might have put an end sooner to the election by coming forward and declaring that he would not serve, if chosen; but I have no reason to believe, and never did think, that he interfered, even to the point of personal influence, to obstruct the election of Mr. Jefferson, or to promote his own.

LETTER FROM J. A. BAYARD TO A. HAMILTON.

WASHINGTON, 7th January, 1801.

DEAR SIR: I have been but a few days in this city, but since my arrival have had the pleasure to receive the letter which you did me the honor to write on the 27th ultimo. I am fully sensible of the great importance of the subject to which it relates, and am, therefore, extremely obliged by the information you have been so good as to communicate.

* * * * *

It is considered, that, at least in the first instance, Georgia, North Carolina, Virginia, Tennessee, Kentucky, Pennsylvania, New Jersey, and New York, will vote for Mr. Jefferson. It is probable that Maryland and Vermont will be divided. It is, therefore, counted that, upon the first ballot, it would be possible to give to Mr. Burr six votes. It is calculated, however, and strongly insisted by some gentlemen, that a persevering opposition to Mr. Jefferson would bring over New York, New Jersey, and Maryland. What is the probability relative to New York? Your means enable you to form the most correct opinion. As to New Jersey and Maryland, it would depend on Mr. Lynn, of the former, and Mr. Dent, of the latter State.

I assure you sir, there appears to be a strong inclination in a majority of the Federal party to support Mr. Burr. The current has already acquired considerable force, and is manifestly increasing. The vote which the representation of a State enables me to give, would decide the question in favor of Mr. Jefferson. At present, I am by no means decided as to the object of preference. If the Federal party should take up Mr. Burr, I ought certainly to be impressed with the most undoubting conviction before I separated myself from them. I cannot, however, deny that there are strong considerations which give a preference to Mr. Jefferson. The subject admits of many and very doubtful views, and before I resolve on the part I shall take, I will await the approach of the crisis which may probably bring with it circumstances decisive of the event.

The Federal party meet on Friday for the purpose of forming a resolution as to their line of conduct. I have not the least doubt of their agreeing to support Burr.

Their determination will not bind me, for though it might cost me a painful struggle to disappoint the views and wishes of many gentlemen with whom I have been accustomed to act, yet the magnitude of the subject forbids the sacrifice of a strong conviction. I cannot answer for the coherence of my letter, as I have undertaken to

write to you from the Chamber of Representatives with an attention divided by the debate which occupies the House. I have not considered myself at liberty to show your letter to any one, though I think it would be serviceable, if you could trust my discretion in the communication of it.

I am, with great consideration, your very obedient servant,

JAMES A. BAYARD.

HON. ALEXANDER HAMILTON.

It will be perceived, Mr. President, that the charge which Mr. Jefferson has recorded is, in its offensive character, this: That my father attempted to corrupt General Samuel Smith, of Maryland, by offering to purchase his support of Mr. Burr, by the promise of such office as he might desire, designating, especially, the Secretaryship of the Navy, and further, that my father stated he was authorized to make the offer. It must be borne in mind, that General Smith was, at the time of the election of 1801, a Representative from Maryland, and that the vote of Maryland was equally divided.

The denial of Mr. Jefferson's own witness, General Smith, is broad and unqualified, and Mr. Edward Livingston, who is cited as a witness that Smith made a similar statement to him, denies all remembrance of it.

As to the truth or falsity of the charge, Mr. Livingston is not alleged to have had any personal knowledge.

The deposition of my father, in the case of Mr. Burr *vs.* Cheetham, proves that he had not even a personal acquaintance with Colonel Burr antecedent to the election of 1801, and no communication with him, directly or indirectly. It further shows that, from the commencement of the struggle, as to the election, my father was opposed to the determination of his party, and only yielded to it for a time, as "a concession which was due to the judgment of a great majority of his political friends," and that, mainly through his influence, the course adopted by the Federal party was abandoned, and the election of Mr. Jefferson effected. His letter of January 7th, 1801, written in the confidence of friendship to General Hamilton,

confirms this conclusively. Further, the charge made by Mr. Jefferson involves the gross absurdity of an entire stranger to Colonel Burr, making an authorized offer of office on his behalf, with a view to the corruption of one of his (Burr's) intimate friends and correspondents, who had been selected by him as his *proxy*, to defeat the very object for which the alleged offer was made. This relation of Colonel Burr to Mr. Smith, appears in his letter to the latter, of the date of December 16, 1800, which letter was a matter of notoriety before the alleged conversation between my father and General Smith, is stated to have occurred, having been published in the newspapers as early as December 30, 1800.

I shall read a copy of it, as contained in General Smith's deposition, in my answer to the second charge.

Sir, I look back with pride and pleasure to the course taken by my father in the election of 1801, and the service he rendered to his country in being the chief actor in its termination.

I will not detain the Senate by reading the other testimony, in corroboration of that which I have submitted, but I desire that it may be appended by the reporter to these remarks. I allude to letters from Mr. Baer, of Maryland, Mr. John Chew Thomas, of Pennsylvania, Mr. Jarvis, of Vermont, (a friend and appointee of Mr. Jefferson,) Joseph L. Sprague, of Massachusetts, and Judge Paine, of Vermont.

Surely, sir, my father was entitled to somewhat more justice from a President to whose election he was mainly conducive, than a *permanent* record of one of those political calumnies, which will always arise during the excitement of party contests, and which should be permitted to perish with the excitement which gives them birth.

The second aspersion upon my father's memory more offensive, and equally groundless, is in the following words:

April 15, 1806.—"I did not commit these things to writing at the time, but I do it now, because, in a suit between him (Burr) and Cheetham, he has had a deposition

of Mr. Bayard taken, which seems to have no relation to the suit, nor to any other object than to calumniate me. Bayard pretends to have addressed to me during the pending of the Presidential election in 1801, through General Samuel Smith, certain conditions on which my election might be obtained, and that General Smith, after conversing with me, gave answers from me. This is absolutely false. No proposition of any kind was ever made to me on that occasion by General Smith, nor any answer authorized by me. And this fact General Smith affirms at this moment."

—*Jefferson's works, Congressional Edition, page 209.*

I do not read the context which relates to an interview between Colonel Burr and Mr. Jefferson, some time in March, 1806—it having no relation to my father; but confine my quotation to that part which embodies the charge affecting his character.

The calumny involved in this charge is, that my father, in a deposition made by him under oath, *falsely pretended* that he had addressed to Mr. Jefferson, through General Samuel Smith, pending the election of 1801, certain inquiries in the nature of conditions to which an affirmative answer had been received by him from General Smith.

My evidence in reply to this charge is conclusive. I now read the deposition of my father, made in the case of Gillespie vs. Smith on the 3d of April, 1806, and that of General Smith, made in the same case on the 15th of the same month. I read also, the fifth interrogatory, omitting the others, as the depositions are perfectly intelligible without them:

FIFTH INTERROGATORY.

Fifth.—Do you or do you not know, or have you heard so that you believe, of any negotiations, bargains, or agreements in the year 1800 or 1801, after the said equality became known, and before the choice of the President, by or on behalf of any person, and whom, with the parties called Federal or Republican, or with either of them, or with any individual or individuals, and whom, of either of the said parties, relative to the office of President of the United States? If yea, declare the particulars thereof, and the reasons of such your belief.

DEPOSITION OF J. A. BAYARD.

Deposition of the honorable James A. Bayard, a witness produced, sworn, and examined in a cause depending in the supreme court of the State of New York, between James Gillespie, plaintiff, and Abram Smith, defendant, on the part of the plaintiff, follows:

To the first interrogatory, deponent answers and says : I do not know either the plaintiff or defendant.

To the second interrogatory he answers and says : I was personally acquainted with Thomas Jefferson before he became President of the United States, the precise length of time I do not recollect. The acquaintance did not extend beyond the common salutation upon meeting, and accidental conversation upon such meetings.

To the third interrogatory he answers and says : I was a member of the House of Representatives of the United States, during the fifth, sixth, and seventh Congresses, from the 3rd of March, 1797, to the third of May, 1803.

To the fourth interrogatory he answers and says : The electoral votes for Thomas Jefferson and Aaron Burr, for President of the United States, were equal, and that the choice of one of them as President did devolve on the House of Representatives.

To the fifth interrogatory he answers and says : I presume this interrogatory points to an occurrence which took place before the choice of President was made, and after the balloting had continued for several days, of which I have often publicly spoken. My memory enables me to state the transaction, in substance, correctly, but not to be answerable for the precise words which were used upon the occasion. Messrs. Baer and Craik, members of the House of Representatives from Maryland, and General Morris, a member of the House from Vermont, and myself, having the power to determine the votes of the States, from similarity of views and opinions during the pendency of the election, made an agreement to vote together. We foresaw that a crisis was approaching which might probably force us to separate, in our votes, from the party with whom we usually acted. We were determined to make a President, and the period of Mr. Adam's Administration was rapidly approaching.

In determining to recede from the opposition to Mr. Jefferson, it occurred to us, that probably instead of being obliged to surrender at discretion, we might obtain terms of capitulation. The gentlemen whose names I have mentioned, authorized me to declare their concurrence with me upon the best terms that could be procured. The vote of either of us was sufficient to decide the choice. With a view to the end mentioned, I applied to Mr. John Nicholas, a member of the House from Virginia, who was a particular friend of Mr. Jefferson. I stated to Mr. Nicholas, that if certain points of the future Administration could be understood and arranged with Mr. Jefferson, I was authorized to say that three States would withdraw from an opposition to his election. He asked me what those points were. I answered, first, sir, the support of public credit ; secondly, the maintenance of the naval system ; and, lastly, that subordinate public officers employed only in the execution of details, established by law, shall not be removed from office on the ground of their political character, nor without complaint against their conduct. I explained myself, that I considered it not only reasonable, but necessary, that offices of high discretion and confidence should be filled by men of Mr. Jefferson's choice. I exemplified by mentioning, on the one hand, the offices of the Secretaries of States, Treasury, foreign ministers, &c. ; and, on the other, the collectors of ports, &c. Mr. Nicholas answered me, that he considered the points as very reasonable, that he was satisfied that they corresponded

with the views and intentions of Mr. Jefferson, and knew him well. That he was acquainted with most of the gentlemen who would probably be about him and enjoying his confidence, in case he became President, and that if I would be satisfied with *his* assurance, he could solemnly declare it as his opinion, that Mr. Jefferson, in his administration, would not depart from the points I had proposed. I replied to Mr. Nicholas, that I had not the least doubt of the sincerity of his declaration, and that his opinion was perfectly correct, but that I wanted an engagement, and that if the points could in any form be understood as conceded by Mr. Jefferson, the election should be ended, and proposed to him to consult Mr. Jefferson. This he declined, and said he could do no more than give me the assurance of his own opinion as to the sentiments and designs of Mr. Jefferson and his friends. I told him that was not sufficient, that we should not surrender without better terms. Upon this we separated, and I shortly after met with General Smith, to whom I unfolded myself in the same manner that I had done to Mr. Nicholas. In explaining myself to him in relation to the nature of the offices alluded to, I mentioned the offices of George Latimer, collector of the port of Philadelphia, and Allen McLane, collector of Wilmington. General Smith gave me the same assurance as to the observance, by Mr. Jefferson, of the points which I had stated, which Mr. Nicholas had done. I told him I should not be satisfied, nor agree to yield, till I had the assurance from Mr. Jefferson himself; but that if he would consult Mr. Jefferson, and bring the assurance from him, the election should be ended. The General made no difficulty in consulting Mr. Jefferson, and proposed giving me his answer next morning. The next day, upon our meeting, General Smith informed me that he had seen Mr. Jefferson, and stated to him the points mentioned, and was authorized by him to say, that they corresponded with his views and intentions, and that we might confide in him accordingly. The opposition of Vermont, Maryland, and Delaware, was immediately withdrawn, and Mr. Jefferson was made President by the votes of ten States.

To the sixth interrogatory, the deponent answers and says: I was introduced to Mr. Burr the day of Mr. Jefferson's inauguration as President. I had no acquaintance with him before, and very little afterwards, till the last winter of his Vice Presidency, when I became a member of the Senate of the United States.

To the seventh interrogatory, deponent answers and says: I do not know, nor did I ever believe, from any information I received, that Mr. Burr entered into any negotiation or agreement with any member of either party, in relation to the Presidential election, which depended before the House of Representatives.

To the eighth interrogatory, the deponent answers and says: Upon the subject of this interrogatory, I can express only a loose opinion, founded upon the conjectures at the time, of what could be effected by Mr. Burr, by mortgaging the patronage of the Executive. I can only say, generally, that I did not believe, at the time, that he had the means of making himself President. But this opinion has no other ground than conjecture, derived from a knowledge of means which existed, and, if applied, their probable operation on individual characters. In answer to the last part of the interrogatory, deponent says: I know of nothing of which Mr. Burr was apprised, which related to the election.

J. A. BAYARD.

District of Columbia, Washington :

The deposition of the honorable James A. Bayard, consisting of six pages, was taken and sworn to before us, this 3d day of April, A. D., 1806.

STEPHEN R. BRADLEY.

GEORGE LOGAN.

DEPOSITION OF SAMUEL SMITH.

Deposition of the honorable Samuel Smith, Senator of the United States for the State of Maryland, a witness produced, sworn and examined in a cause depending in the supreme court of the State of New York, between James Gillespie, plaintiff, and Abram Smith, defendant, on the part and behalf of the defendant, as follows :

1st. I knew Thomas Jefferson some years previous to 1800. The precise time when our acquaintance commenced, I do not recollect.

2d. and 3d. I was a member of the House of Representatives of the United States in 1800 and 1801, and know that Thomas Jefferson and Aaron Burr had an equal number of the votes given by the electors of President and Vice President of the United States.

4th. Presuming that this question may have reference to conversations (for I know of no bargains or agreements) which took place at the time of the balloting, I will relate those which I well recollect to have had with three gentlemen, separately, of the Federal party. On the Wednesday preceding the termination of the election, Colonel Josiah Parker asked a conversation with me in private. He said that many gentlemen were desirous of putting an end to the election; that they only wanted to know what would be the conduct of Mr. Jefferson in case he should be elected President, particularly as it related to the public debt, to commerce, and navy. I had heard Mr. Jefferson converse on all those subjects lately, and informed him what I understood were the opinions of that gentleman. I lived in the house with Mr. Jefferson, and that I might be certain that what I had said was correct, I sought and had a conversation that evening with him on those points; and I presume, though I do not precisely recollect, that I communicated to him the conversation which I had had with Colonel Parker.

The next day General Dayton, (a Senator,) after some jesting conversation, asked me to converse with him in private. We retired. He said that he, with some other gentlemen, wished to have a termination put to the pending election; but he wished to know what were the opinions or conversations of Mr. Jefferson respecting the navy, commerce, and public debt. In answer I said that I had last night had conversation with Mr. Jefferson on all those subjects. That he had told me that any opinion he should give at this time, might be attributed to improper motives. That to me he had no hesitation in saying that, as to the public debt, he had been averse to the manner of funding it, but that he did not believe there was any man who respected his own character, who would or could think of injuring its credit at this time. That, on commerce, he thought that a correct idea of his opinion on that subject might be derived from his writings, and particularly from his conduct while he

was Minister at Paris, when he thought he had evinced his attention to the commercial interests of his country. That he had not changed opinion, and still did consider the prosperity of our commerce as essential to the true interest of the nation. That, on the navy, he had fully expressed his opinion in his Notes on Virginia; that he adhered still to his ideas then given. That he believed our growing commerce would call for protection; that he had been averse to a too rapid increase of our navy; that he believed a navy must naturally grow out of our commerce, but thought prudence would advise its increase to progress with the increase of the nation, and that in this way he was friendly to the establishment. General Dayton appeared pleased with the conversation, and, I think, said that, if this conversation had taken place earlier, much trouble might have been saved, or words to that effect.

At the funeral of Mr. Jones, of Georgia, I walked with Mr. Bayard, of Delaware. The approaching election became the subject of conversation. I recollect no part of that conversation, except his saying that he thought that an half hour's conversation between us might settle the business. That idea was not again repeated. On the day after, I had held the conversation with General Dayton, I was asked by Mr. Bayard to go into the committee room. He then stated that he had it in his power (and was so disposed) to terminate the election, but he wished information as to Mr. Jefferson's opinions on certain subjects, and mentioned, (I think,) the same three points already alluded to, as asked by Colonel Parker and General Dayton, and received from me the same answer in substance, (if not in words,) that I had given to General Dayton. He added a fourth, to wit: What would be Mr. Jefferson's conduct as to the public officers? He said he did not mean confidential officers, but, by the way of elucidating his question, he said, such as Mr. Latimer, of Philadelphia and Mr. McLane, of Delaware. I answered that I never had heard Mr. Jefferson say anything on that subject. He requested that I would inquire, and inform him the next day. *I did so. And the next day (Saturday) told him, that Mr. Jefferson had said that he did not think that such officers ought to be dismissed on political grounds only, except in cases where they had made improper use of their offices, to force the officers under them to vote contrary to their judgment. That as to Mr. McLane, he had already been spoken to in his behalf by Major Eccleston, and from the character given him by that gentleman, he considered him a meritorious officer; of course, that he would not be displaced, or ought not to be displaced. I further added, that Mr. Bayard might rest assured, (or words to that effect,) that Mr. Jefferson would conduct, as to those points, agreeably to the opinions I had stated as his. Mr. Bayard then said, we will give the vote on Monday, and we separated.* Early in the election, my colleague, Mr Baer, told me that we should have a President, that they would not get up without electing one or the other gentlemen. Mr. Baer had voted against Mr. Jefferson until the final vote, when, I believe, he withdrew, or voted blank, but do not perfectly recollect.

5th. I became acquainted with Colonel Burr some time in the revolutionary war.

6th. I know of no agreement or bargain in the years 1800 and 1801 with any person or persons whatsoever, respecting the office of President in behalf of Aaron Burr, nor have I any reason to believe that any such existed.

7th. I received a letter from Colonel Burr, dated, I believe, 16th December, 1800, in reply to one which I had just before written him. The letter of Colonel Burr is as follows :

“ It is highly improbable that I shall have an equal number of votes with Mr. Jefferson ; but if such should be the result, every man who knows me ought to know, that I would utterly disclaim all competition. Be assured that the Federal party can entertain no wish for such an exchange. As to my friends, they would dishonor my views and insult my feelings, by a suspicion that I would submit to be instrumental in counteracting the wishes and the expectations of the people of the United States. And I now constitute you my proxy to declare these sentiments, if the occasion shall require.’”

I have not now that letter by me, nor any other letter from him, to refer to—the preceding is taken from a printed copy, which corresponds with my recollection, and which I believe to be correct. My correspondence with him continued till the close of the election. In none of his letters to me, or to any other person that I saw, was there any thing that contradicted the sentiments contained in that letter.

S. SMITH.

City of Washington, in the District of Columbia:

The deposition of the honorable Samuel Smith, written upon five pages, was duly taken and sworn to before us, two of the commissioners named in the annexed commission, at the Capitol, in said city of Washington, on the fifteenth day of April, in the year of our Lord one thousand eight hundred and six, and of the Independence of the United States, the thirtieth.

GEORGE LOGAN,

DAVID STONE.

This testimony needs no comment.

Mr. Jefferson vouches Mr. Smith on the 15th of April, 1806, as his witness to sustain the charge of *false statements* made by my father. The deposition of General Smith, *made under oath on the same day*, corroborates, substantially and fully, the statement made by my father in his deposition.

It stated in the passage from Mr. Jefferson's works which I have last quoted, that the deposition was taken in the suit of Burr *vs.* Cheetham, and seemed to have no relation to the suit, nor to any other object than to calumniate him, [Mr. Jefferson.] The former part of this statement as to the title of the suit, is evidently an error, and as to the latter, I have neither knowledge nor the means of knowledge of the relevancy of the testimony to the suit of Gillespie *vs.* Smith. I have been able, after diligent inquiry, to ascertain nothing in relation to it, nor was

there among my father's papers any paper or memorandum having reference to the subject. The material question, however, as regards my father is, that his answer is responsive to the interrogatory, and I have yet to learn that a witness has the right to determine the relevancy or irrelevancy of the matters to which he deposes to the subject in controversy in the case.

Sir, when my brother and I first read this charge we were at loss for the means of refutation. We could not find, amongst my father's papers, any trace of his having made such a deposition, and a copy of his deposition in *Burr vs. Cheetham*, which we did find, (in which case Mr. Jefferson alleged the false deposition to have been made,) contained nothing of the kind.

In this state of ignorance, after many fruitless attempts at obtaining information, the documents I have just read were fortunately—or should I not rather say providentially?—discovered.

I went to New York, and, under the supposition that, having been a chief actor in the transaction, according to Mr. Jefferson's statement, Colonel Burr, who was then living, could give me some information, I called upon him. His memory of those times, and indeed generally, seemed to be much impaired, and it was only after many minute and direct inquiries that he at last told me he thought Bradley, of Vermont, had been a commissioner to take depositions in a suit relating to the events of the election of 1801. He had no further recollection of the matter.

I wrote to the representatives of Mr. Bradley, and the *original* depositions, of which I have read copies, were returned to me by his son or representative; having been retained amongst Mr. Bradley's papers, and thus preserved.

May I not, Mr. President, without aggression, be permitted to remark, that, rest where it may, the charge of calumny rests not upon my father's memory.

The deposition of Mr. Bayard was made during the lifetime of all the parties connected with, or having a knowledge of, the matters detailed in it, and made, too, before commissioners (Messrs. Bradley and Logan) opposed to him in political principles, and members of Mr. Jefferson's party.

The memoranda of Mr. Jefferson were secluded amongst his private papers, revised by him in 1823, eight years after Mr. Bayard's death, and left posthumous publication to tarnish his reputation when the means of refutation *might* have been lost. Those means, however, have been preserved, and the object and intent of these "Anas," so far as relates to Mr. Bayard, utterly defeated—with what benefit to the reputation of Mr. Jefferson, is left to others to determine.

Sir, I freely admit, that Mr. Jefferson was a man of genius, and rendered great services to his country; and my object is not aggression. I have endeavored to make this statement merely defensive; nor have I wandered from the charges affecting the character of my father, for the purpose of commenting upon the opinions of Mr. Jefferson, or investigating the numerous charges contained in his "Memoirs" against the Federal party, its leading members, and the State in which it maintained a majority during his administration. These, together with the general views of Mr. Jefferson on religion and Government, and his character as a philosopher, statesman, or man, will be more impartially considered at a later day; more fairly weighed, and truly estimated, when those whose feelings are, in any way, connected with the contest in which he was so prominent, are not to be the arbiters. His most devoted friends, however, cannot but regret that the enlightened judgement and benevolent feelings, which, in his letter to Mr. Adams, of June 23, 1813, dictated the sentiment, that he "should see with reluctance the passions of that day rekindled in this, while so many of the actors are living, and all are too near the scene not to participate in sympathies with them," did not look beyond the duration of his own life, and restrain the publication of much that is

contained in the "Memoirs," which, whether with reference to his own fame, or with a proper regard for the opinions, sentiments, and characters of others, a wise discretion alone would certainly have prevented.

Mr. President, I have concluded my defense; but I trust I shall not be considered as trespassing too far upon the time and patience of the Senate, by the statement of a few facts—probably little known to the public—having relation to my father's course during the contest of 1801, and illustrative of his principles and character—a character which won the confidence of his political opponents, whilst it retained that of his friends.

On the 17th of February, 1801, the day on which the election was terminated in favor of Mr. Jefferson, mainly through the influence and exertions of Mr. Bayard, he was nominated by President Adams as Minister to the French Republic.

He was then thirty-three years of age. That nomination was unanimously confirmed by the Senate on the 19th of February; and, on the same day, Mr. Bayard addressed the following letter to the President, resigning the office:

WASHINGTON, *February 19, 1801.*

SIR: I beg you to accept my thanks for the honor conferred on me, by the nomination as Minister to the French Republic. Under most circumstances, I should have been extremely gratified with such an opportunity of rendering myself serviceable to the country. But the delicate situation in which the late presidential election has placed me, forbids my exposing myself to the *suspicion* of having adopted, from impure motives, the line of conduct which I pursued. Representing the smallest State in the Union, without resources which could furnish the means of self-protection, I was compelled, by the obligation of a sacred duty, so to act, as not to hazard the constitution upon which the political existence of the State depends.

The service which I should have to render, by accepting the appointment, would be under the administration of Mr. Jefferson, and having been in the number of those who withdrew themselves from the opposition to his election, it is impossible for me to take an office, the tenure of which would be at his pleasure.

You will, therefore, pardon me, sir, for begging you to accept my resignation of the appointment.

I have the honor to be, with perfect consideration, your very obedient servant,
JAMES A. BAYARD.

The President of the United States.

The following extract is from a letter written three days afterwards to a near relative, one of the earliest and most intimate friends of Mr. Bayard. Those who knew him personally, will recognize his character in its sentiments. It contains the principles which governed his political course and ambition, then, and through the rest of his life. Principles which induced him to accept the mission to Ghent as a duty to his country, and when peace was concluded, to decline that to St Petersburg.

WASHINGTON, *February 22, 1801.*

You are right in your conjecture as to the office offered me. I have since been nominated Minister to France, concurred in *nem. con.*—commissioned and resigned. Under proper circumstances, the acceptance would have been complete gratification ; but, under the existing, I thought the resignation most honorable. To have taken \$18,000 out of the public Treasury, with a knowledge that no service could be rendered by me, as the French Government would have waited for a man who represented the existing feelings and views of this Government, would have been disgraceful.

Another consideration of great weight, arose from the part I took in the presidential election. As I had given the *turn* to the election, it was impossible for me to accept an office, which would be held on the tenure of Mr. Jefferson's pleasure. My ambition shall never be gratified at the expense of a suspicion.

I shall never lose sight of the motto of the great original of our name.

Sir, it must often happen that the extent of the services rendered by a statesman to his country, will remain unknown and unestimated, and such I believe has been peculiarly my father's fate, both in relation to the election of 1801, and the treaty of peace concluded at Ghent in 1814.

Such, certainly, was his own belief, when, on his death bed, he expressed his calm but mournful regret to the distinguished surgeon who attended him, during the short week which he survived after reaching his home: "Ah! doctor, my country will never know how much she owes me."

[ADDENDA.

FREDERICK, *April 19, 1830.*

Sir: In compliance with your request, I now communicate to you my recollections of the events of the presidential election, by the House of Representatives, in 1801.

There has been no period of our political history more misunderstood and more grossly misrepresented. The course adopted by the Federal party was one of prin-

ciple and not of faction, and I think the present a suitable occasion for explaining the views and motives at least of those gentleman who, having it in their power to decide the election at any moment, were induced to protract it for a time, but ultimately to withdraw their opposition to Mr. Jefferson.

I have no hesitation in saying that the facts stated in the deposition of your father, the late James A. Bayard, so far as they came to my knowledge, are substantially correct ; and although nearly thirty years have elapsed since that eventful period, my recollection is vivid as to the principal circumstances, which, from the part I was called upon to act, were deeply graven on my memory. As soon as it was generally known that the two Democratic candidates, Jefferson and Burr, had the highest and an equal number of votes, and that the election would consequently devolve on the House of Representatives, Mr. Dent, who had hitherto acted with the Federal party, declared his intention to vote for Mr. Jefferson, in consequence of which determination the vote of Maryland was divided.

It was soon ascertained that there were six individuals, the vote of any one of whom could at any moment decide the election. These were your father, the late James A. Bayard, who held the vote of the State of Delaware, General Morris, of Vermont, who held the divided vote of that State, and Mr. Craik, Mr. Thomas, Mr. Dennis, and myself, who held the divided vote of Maryland. Much anxiety was shown by the friends of Mr. Jefferson, and much ingenuity used to discover the line of conduct which would be pursued by them. Deeply impressed with the responsibility which attached to their peculiar situation, and conscious that the American people looked to them for a President, they could not rashly determine either to surrender their constitutional discretion, or to disappoint the expectations of their fellow-citizens.

Your father, Mr. Craik, and myself, having compared ideas upon the subject, and finding that we entertained the same views and opinions, resolved to act together, and accordingly entered into a solemn and mutual pledge, that we would, in the first instance, yield to the wishes of the great majority of the party with whom we acted, and vote for Mr. Burr, but that no consideration should induce us to protract the contest beyond a reasonable period for the purpose of ascertaining whether he could be elected. We determined that a President should be chosen, but were willing thus far to defer to the opinions of our political friends, whose preference of Mr. Burr was founded upon a belief that he was less hostile to Federal men and Federal measures than Mr. Jefferson. General Morris and Mr. Dennis concurred in this arrangement.

The views by which the Federal party were governed were these : They held that the Constitution had vested in the House of Representatives a high discretion, in a case like the present, to be exercised for the benefit of the nation ; and that, in the execution of this delegated power, an honest and unbiased judgment was the measure of their responsibility. They were less certain of the hostility of Mr. Burr to Federal policy than that of Mr. Jefferson, which was known and decided. Mr. Jefferson had identified himself with, and was at the head of, the party in Congress who had opposed every measure deemed necessary by the Federalists for putting the country in a posture of defense ; such as fortifying the harbors and sea-ports, establishing manufactories of arms ; erecting arsenals, and filling them with arms and

ammunition ; erecting a navy for the defense of commerce, &c. His speculative opinions were known to be hostile to the independence of the judiciary, to the financial system of the country, and to internal improvements.

All these matters the Federalists believed to be intimately blended with the prosperity of the nation, and they deprecated, therefore, the elevation of a man to the head of the Government whose hostility to them was open and avowed. It was feared, too, from his prejudices against the party which supported them, that he would dismiss all public officers who differed with him in sentiment, without regard to their qualifications and honesty, but on the ground only of political character. The House of Representatives adopted certain resolutions for their government during the election, one of which was, that there should be no adjournment till it was decided.

On the 11th February, 1801, being the day appointed by law for counting the votes of the electoral colleges, the House of Representatives proceeded, in a body, to the Senate Chamber, where the Vice President, in view of both Houses of Congress, opened the certificates of the electors of the different States, and as the votes were read, the tellers on the part of each House counted, and took lists of them, which being compared and delivered to him, he announced to both Houses the state of the votes : which was—for Thomas Jefferson, 73 votes ; for Aaron Burr, 73 votes ; for John Adams, 65 votes ; for Charles Pinckney, 64 votes ; for John Jay, 1 vote ; and then declared, that the greatest number, and majority of votes, being equal, the choice had devolved on the House of Representatives. The members of the House then withdrew to their own Chamber, and proceeded to ballot for a President. On the first ballot, it was found that Thomas Jefferson had the votes of eight States, Aaron Burr of six States, and that two were divided. As there were sixteen States, and a majority was necessary to determine the election, Mr. Jefferson wanted the vote of one State. Thus the result which had been anticipated was realized.

The balloting continued throughout that day, and the following night, at short intervals, with the same result, the twenty-sixth ballot being taken at eight o'clock on the morning of the 12th of February. The balloting continued with the same result, from day to day, till the 17th of February, without any adjournment of the House. On the previous day (February 16) a consultation was held by the gentlemen I have mentioned, when, being satisfied that Mr. Burr could not be elected, as no change had taken place in his favor, and there was no evidence of any effort on the part of himself or his personal friends to procure his election, it was resolved to abandon the contest. This determination was made known to the Federal members generally, and excited some discontent among the violent of the party, who thought it better to go without a President than to elect Mr. Jefferson. A general meeting, however, of the Federal members was called, and the subject explained, when it was admitted that Mr. Burr could not be elected. A few individuals persisted in their resolution not to vote for Mr. Jefferson, but the great majority wished the election terminated and a President chosen. *Having also received assurances from a source on which we placed reliance, that our wishes with respect to certain points of Federal policy in which we felt a deep interest would be observed in case Mr. Jefferson was elected,* the opposition of Vermont, Delaware, and Maryland, was withdrawn, and on the thirty-sixth ballot, your father, the late James A. Bayard, put in a blank ballot, my-

self and my colleagues did the same, and General Morris absented himself. The South Carolina Federalists also put in blank ballots. Thus terminated that memorable contest.

Previous to, and pending, the election, rumors were industriously circulated and letters written to different parts of the country, charging the Federalists with the design to prevent the election of a President, and to usurp the Government by an act of legislative power. Great anxiety and apprehension were created in the minds of all, and of none more than the Federalists generally, who were not apprised of the determination of those gentlemen who held the power, and were resolved to terminate the contest when the proper period arrived. But neither these rumors, nor the excitement produced by them, nor the threats made by their opponents to resist, by force, such a measure, had the least influence on the conduct of those gentlemen. They knew the power which they possessed, and were conscious of the uprightness of their views, and of the safety and constitutional character of the course they had adopted. I was privy to all the arrangements made, and attended all the meetings of the Federal party when consulting on the course to be pursued in relation to the election, and I pledge my most solemn asseveration that no such measure was ever, for a moment, contemplated by that party; that no such proposition was ever made; and that, if it had been, it would not only have been discouraged, but instantly put down by those gentlemen who possessed the power, and were pledged to each other to elect a President before the close of the session.

I am, respectfully, sir, your most obedient servant,

GEORGE BAER.

RICHARD H. BAYARD, Esq.

LEIPERVILLE, *4th of 5th month*, 1830.

ESTEEMED FRIEND: I have carefully considered the contents of thy letter of the 16th ultimo, and can fully appreciate the object in view, which appears to be the vindication of the character of thy father, James A. Bayard, in consequence of certain "injurious imputations" affecting it, contained in the writings of Jefferson, lately published, in reference to his conduct in the presidential election of 1801. I must be excused from attempting anything like a circumstantial account of the transactions of so remote a period. The depositions shown me by *thee*, which were made by thy father in 1805, and the statement recently drawn up by George Baer, (my colleague in Congress,) of the occurrences which then happened, I believe to be substantially correct—and I may add that, as a Federal member of the House of Representatives, I attended the meetings of the Federalists, held for consultation at that deeply interesting crisis—and know of no cause to doubt the sincerity of the *professed object* of the party, which was to execute the important duty devolved upon them, by exercising a *constitutional* discretion for the benefit of the nation, according to the dictates of their best judgment at the time. Of any project or determination inconsistent with these views I am utterly ignorant, as I am of any fact or circumstance which ought, in the slightest degree, to lessen the high *respect* which, in common with the American people, I have uniformly entertained for the *integrity* of thy

father, as well as for his preeminent talents, zealously devoted to the service of his country.

RICHARD H. BAYARD.

JNO. CHEW THOMAS.

I, William Jarvis, of Weathersfield, in the county of Windsor, and State of Vermont, do testify and declare that, in the friendly intercourse which took place between the late honorable Lewis R. Morris, and myself, among various other topics, politics often became the subject of conversation. In one of these conversations, the contest which took place in the House of Representatives in the year 1801, for the election of Mr. Jefferson or Mr. Burr, to be President of the United States, was adverted to; when General Morris remarked that several Federalists of high standing wished for the election of Mr. Jefferson in preference to Mr. Burr, naming the late honorable James A. Bayard, of Delaware, as being one; and stated that Mr. Bayard came to him (General Morris) and urged him to vote in favor of Mr. Jefferson, or to absent himself when the ballots of the State delegations were taken. Mr. Bayard remarking to him, that as he (Mr. Bayard) represented a Federal State, he could not, with propriety, vote for Mr. Jefferson, but as the State of Vermont was friendly to the election of Mr. Jefferson, no objection of the kind precluded him (General Morris) from giving his vote to Mr. Jefferson, or from absenting himself from the poll. As the delegation of Vermont in Congress consisted of two members, one of which had voted for Mr. Jefferson, and he (General Morris) had voted for Mr. Burr, the vote of the State had previously been lost; but upon the representations of Mr. Bayard, with whom General Morris said he was on terms of the most friendly intimacy, and for whose talents he entertained the highest respect, and had the most entire confidence in his honor and integrity, he was induced, prior to the last ballot, to absent himself from the House, and the other member being in favor of Mr. Jefferson, the vote of Vermont was accordingly given to him. After a lapse of ten or twelve years I do not pretend to recollect the precise language of General Morris, but I am satisfied that the preceding declaration contains the true and faithful sense of his communication to me relative to that question.

WILLIAM JARVIS.

WEATHERSFIELD, 29th April, 1830.

COUNCIL CHAMBER, BOSTON, June 2, 1830.

Sir: I enclose you the statement of my brother, William Jarvis, of Vermont, and it gives him and myself great pleasure to be in any way instrumental in vindicating the character of your father.

One such witness as Mr. Jarvis is sufficient. He was appointed consul at Libson by Mr. Jefferson, and was there as consul and charge d'affaires many years. Was also appointed by Mr. Madison commissary general of the Northern Army, which he declined; was one of the presidential electors of the State of Vermont at the last election, and has repeatedly declined the Gubernatorial chair of that State. With great respect, your obedient servant,

JOSEPH E. SPRAGUE.

RICHARD H. BAYARD, Esq.

POLITICAL HISTORY.

Letter from Judge Paine, of Vermont, to the Editor of Niles's Register.

WILLIAMSTOWN, (VERMONT,) *June 1, 1830.*

DEAR SIR : Noticing, in the papers of the day, the memorandum made by the late President Jefferson, of the communication of Mr. Livingston, of Louisiana, in relation to a conversation said to be held by the late Mr. Bayard, of Delaware, with General Smith, of Maryland, pending the presidential election in the House of Representatives in 1801, I determined immediately to communicate to you my knowledge of the views and sentiments of Mr. Bayard, in relation to that election. But, from a reluctance to appear in the public prints at my time of life, I changed my determination. However, by the advice of friends, on whose judgment I rely, I now concisely communicate to you my knowledge on that subject.

And first, permit me to say, that probably I possess more knowledge on the subject, as it relates to Mr. Bayard, than any person now living. Mr. Bayard, as is well known, was, at the time, the sole Representative from Delaware, and could cast the vote of that State as he thought proper. The late General Morris and Matthew Lyon were the Representatives from this State—Vermont; for, at that time, Vermont had but two Representatives. General Morris voted for Mr. Burr, and Mr. Lyon for Mr. Jefferson. In consequence the vote of Vermont was lost. At the same time I was in the Senate, and was on intimate and confidential terms with General Morris, and had been so for many years. He held conversations with me every day during the balloting in the House of Representatives, in relation to the business before them.

General Morris was very intimate with Mr. Bayard; and, in consequence of this intimacy, I became very well acquainted with the latter gentleman. And I *do know* that Mr. Bayard was much dissatisfied that the balloting should have been so long protracted, and that, the day before the last ballot, he declared, among his political friends, it should be brought to a close the next day. He thought that the delay would cause a dangerous excitement in the country.

The evening before the last ballot was taken, General Morris informed me that he should not be in the House the next day, and, in consequence, Mr. Jefferson would be elected. He said he was induced to secede by the representations and at the request of Mr. Bayard, who thought that he—General Morris—could secede with greater propriety than a person who was the only Representative of a Federal State, and Vermont, at the time, was nearly equally divided on the subject; so that I always considered Mr. Bayard as the means of Mr. Jefferson's election, and I believe he was so considered by many others.

That Mr. Bayard might have sportively said to General Smith what is attributed to him, is possible; and, if so, General Smith would not probably remember it. But if such conversation was held with corrupt views, for the purpose of influencing him, it is impossible he should have forgotten it. I have no belief that Mr. Bayard would seriously have made what amounts to a proposition to corrupt another.

I am, with great regard, your obedient servant,

ELIJAH PAINE.]

Mr. PEARCE. Mr. President, the Joint Committee on the Library, of which I am a member, were directed by an act of Congress to cause the Jefferson papers to be published. These papers, sir, were very voluminous. They consist of one hundred and thirty-four large bound volumes of manuscript, besides an immense mass of loose papers. It was manifestly impossible for the Committee on the Library, individually, to perform the duties of editor. They therefore employed a gentleman of talent and character, and directed him, generally, to make such a selection from the papers of Mr. Jefferson, as were necessary and proper to exhibit fairly and fully his opinions, character, and public course.

I regret very much that, during the course of that publication, the attention of the committee was not called to the items in the "Ana," to which the Senator from Delaware has referred. Certainly, sir, if that had been the case, I should have deemed it my duty, and, I presume, the committee would have deemed it theirs, to direct the editor, either to omit the charges referred to, or, what would perhaps have been better, to accompany them with the refutation which had been given to the public. I well recollect the exposition made in the Senate of the United States, to which the Senator has referred, and I have read more than once the pamphlet issued by the Senator and his brother. I consider the accusation of Mr. Jefferson as being as fully refuted as it was possible for any accusation to be refuted by human testimony. Without the authority of his name, it would have rapidly sunk into oblivion. With the authority of his name, it has utterly failed to impair the reputation of one who was eminent as a statesman and citizen, and distinguished, not only for ability, but for enlightened and earnest patriotism, and for a public and private honor which was without a stain. That character Mr. Bayard maintained, not only in his own State, where such a reputation as I have described was always accorded to him, but throughout the Union. The tribute due to exalted character was not only paid to him by his own political

party, but in the cordial acknowledgements of those to whom he was politically opposed. His ability and patriotism could not have been more highly indorsed than they were by the chief of his political opponents, Mr. Madison, who appointed him one of the commissioners to Ghent, to negotiate peace with Great Britain.

I have only to repeat, sir, my regret, that I was not informed, during the progress of this publication, that these accusations were about to be included in the congressional edition of Mr. Jefferson's papers.

Mr. CASS. Mr. President, I have listened, with great interest, to the vindication which we have heard from the honorable Senator from Delaware, and I am sure that, if Mr. Jefferson were now here to hear the statements made by that honorable Senator, he would be the first to say that the memory of the distinguished statesman who has been alluded to, had been unjustly reflected on. Mr. Jefferson's high character, his truth, and his frankness, would have led him, as soon as any other man, to disavow any erroneous reflections. The reports, on which the Senator from Delaware has commented, undoubtedly originated in that period of excitement which attended the presidential election of 1801. I bear the circumstances in perfect recollection; and, sir, perhaps never, in the whole history of our country, from the 4th of July, 1776, to the moment when I am addressing the Senate, were the American people more excited than at that time. Independent of the radical difference in the character of the two men who were presented to them, well known and well appreciated, there was a great principle involved in that controversy—the principle of the distinct enunciation of the determination of the American people that Thomas Jefferson should be their President. Now, sir, when the event has passed by, with all its feelings and passions, history has ratified and commended the action of the House of Representatives. There is not a man at this day who, in

looking back to the history of that period, and the subsequent events, will pretend to say that Colonel Burr should have been chosen President, and Mr. Jefferson set aside. No man, knowing the character of Colonel Burr, as evinced in his conflict with General Hamilton, can tell what would have been the consequences of such an event. Mr. President, you cannot look at the publications of European statesmen—and they are coming to us every day, in the most authentic form, in the papers left behind them—without finding similar errors into which they have been led. Mr. Jefferson was led into this error in the same way as they were into similar ones in regard to their countries. I repeat, however, the vindication of the Senator from Delaware to-day is complete and satisfactory; and, if Mr. Jefferson were here, he would be the first to say so.

Mr. President, I add my full concurrence to what has been said by the honorable Senator from Maryland. I had the honor, when a youth, to see Mr. Bayard often. I lived, for a while, in his own town. The impression which I derived then, and it was the universal sentiment of the country, was, that he was a man of the highest honor and probity, of great talents, integrity, and intelligence, and of the purest patriotism. I consider that one of the most glorious acts of his life when, in opposition to the feelings of his own party, he brought over the State of Delaware to the support of Mr. Jefferson. If a different result had followed that controversy, this Union would have been shaken to its very center. I do not recollect that my honorable friend from Delaware alluded to the man who now dwells on my memory, Lewis Morris, of Vermont, who, according to the best of my recollection, had a principal share in the arrangement on the part of that State. I am not sure that he voted at all; but if he did it was for Mr. Jefferson. This, it will be recollected, was the action of distinguished Federalists, in opposition to the sentiments of a great portion of their own party.

Mr. President, there is a beautiful passage in the life of Mr. Bayard—a lesson for every American. He belonged to, I may almost say he was the head of, that great party which, from the foundation of the Government, has contended with the Democratic party for the administration of the affairs of this country. He was among the most prominent and honored men of that party which opposed the war of 1812, no doubt from very conscientious motives. But, sir, in the darkest crisis of the war, when it was thought best by Mr. Madison to send an embassy to England, who was selected? This very man, against whom these imputations were circulated and sent to the ears of Mr. Jefferson. Mr. Jefferson's friend and successor, and confidential adviser, Mr. Madison, selected him to accompany Henry Clay, Albert Gallatin, and the other eminent men who negotiated the treaty of peace. That was the stamp of his contemporaries on his character. He went there in the view of the whole world, and, to my knowledge, he had an honorable share in the preparation of the articles of peace. Those commissioners conducted themselves like Americans. They would not give up one inch of territory. When England proposed to run a line south of Sandusky bay, taking off a part of the State of Ohio, and all north of it to the Mississippi river under the pretense that they wanted that territory for Indian country, what did the commissioners say? That they had not power to yield one foot of the territory of the United States, and that one inch of it they never would yield. That ought to be a lesson to Americans in all time to come. Sir, the memory of such men is the treasure of our country. Let us protect it with sacred vigilance.

Mr. HUNTER. Mr. President, the Senator from Delaware has discharged a pious duty, and discharged it well. He has rescued the memory of his father from an imputation which might have tarnished it, and shown that he was guiltless of any such offense. His, sir, was such an offering as filial

affection might be glad to render to the dead. It was not only his right, but his duty, to have risen, and to have done what he has this day done.

But, sir, while he feels it to be his duty to take care of the reputation of his father, I may be allowed, perhaps, to say a word in reference to a great name, which is deservedly cherished in my own State. That Mr. Jefferson believed what he recorded, I think no man can doubt who has ever studied his character or his history. That he was led into an error, and very naturally led into an error, under the excitement and the passions of the day, I think has been very clearly shown. But, sir, that he is chargeable with culpability for preserving and for presenting to posterity such memorials as those which he has left behind him, I think, cannot be justly maintained, when we come to consider the importance and the value of such historical documents. That they should contain errors is natural and probable enough; and that no man would have regretted those errors more than Mr. Jefferson, if he had been aware of them, I believe I may say, and expect to be sustained by the evidence of his life and his career.

Sir, to say that it is wrong for such a man as Mr. Jefferson, who figured in scenes so important, to leave behind him any memoirs of a personal character, or a daily record of the proceedings of the times, would be to say that we should have denied to the world such memoirs as those of Sully, and Clarendon, and De Retz, and Burnett, and many others to which I could allude, and which we would not willingly lose. Sir, of all sorts of historical documents, these are among the most important. I may say, also, that this kind of history is especially liable to error, and to errors which are not easily avoided. That such mistakes are to be found in Mr. Jefferson's writings, I admit. That the Senator from Delaware has proved that he was mistaken and deeply erred in this case, I admit; but whilst I say so, I must be allowed to declare that I do not believe Thomas Jefferson

ever recorded that which he did not believe to be true, either in reference to the character of a fellow-man, or in regard to any event of historical importance. I must, also, be allowed to say that, although writings of this character may be liable to such errors, yet it does not follow that it was improper in a man who saw what he saw, and who bore such a part in the public affairs of the world as he did, to leave such records as must be among the most valuable monuments of human history; for the good more than compensates for the evil which may be thus done. Sir, they will be recurred to hereafter by posterity, and they will be received as one of the legacies from him for which he will be honored and remembered.

Mr. MASON. Mr. President, I listened, as did all the Senate, with deep interest and emotion to the explanation which fell from the very able Senator from Delaware, in vindication of the memory of his father. I must be permitted to say, sir, even in his presence, that, while it illustrated the filial virtues of his own heart, it betrayed an able and well-balanced intellect. I can appreciate the painful necessity under which he was placed while discharging this duty, achieved, I will add, with such signal success in our presence. It would be gratuitous in me to say that the evidence, which he has been enabled to adduce from the mouldy records of time, has been conclusive.

Sir, it is unfortunate that there was such a necessity. I agree with my friend and colleague, and with the honorable Senator from Michigan, that, if we could recall the actors of those days, the distinguished statesman who recorded those pages would have been the first to obliterate them. The feelings which he carried to his grave in his latter days are strikingly depicted in the letter which was read by the Senator from Delaware, one of his last letters to Mr. Adams, who preceded him in office. The passions of the day had then subsided, and the excitement of feeling had subsided with them.

But now, sir, so far as history is concerned, we know how utterly impossible it is, with the clearest and least impassioned mind, clearly to ascertain the truth when there is excitement and prejudice mingled with it. Mr. Jefferson, undertook, unfortunately, as I think, to record conversations at some time after they had passed, and he undertook it when the passions of the day had not yet subsided, and when none, from the necessity of his position, had mingled more freely in them than he had done; and all can understand, who know anything of the difficulty of getting at truth, how natural it was that even such a man should have misinterpreted and misapprehended.

Sir, Thomas Jefferson has left his impression upon the age in which he lived, not only in this broad land, but at home, in his native State. No man did more to mould, to cast into shape, and form the Government which now prevails in this country—a Republican Government, resting upon popular institutions. The traces of his mighty intellect are everywhere in the history of the country. At home, after he had retired from public life, he gave his whole time, and all his thoughts to the institutions of his native State, and to the promotion of her welfare.

Sir, the James A. Bayard of that day has passed into history, and it may be said of him, that he bore with a winning grace that high and lofty name, which the Bayard of Dauphiny, had signalized in the fifteenth century—the chevalier who, with the virtue of Scipio blended the graces of Alcibiades, who lived without fear, and died without reproach.

Now, sir, one word as to what has fallen from the Senator from Maryland, in reference to the publication of the papers of Mr. Jefferson. It was at my instance, I think, chiefly, that the very learned and able gentleman who was appointed by the committee to edit this publication, was selected; a citizen of Virginia, then and still a professor in old William and Mary—our renowned and earliest seat of learning—Pro-

fessor Washington. He conversed with me frequently and freely while he had this work under his charge; he conversed equally, I believe, freely with the honorable Senator from Maryland, who was then, as now, chairman of the Committee on the Library, to whom the duty of publication was intrusted. Professor Washington considered it his duty, and in that, I believe, he was sustained by the honorable Senator from Maryland—certainly he was by me—to publish everything which would contribute materials for future history, or which would show the political opinions and tenets of Mr. Jefferson. I presume there was no consultation with anybody as to the publication of the *anas*. I never heard of it. My impression is, however, that these *anas* had been published in the private collection that was printed by Mr. Jefferson's representatives after his death, and had gone to the world in that form, and if the inquiry had been made of me, or of the honorable Senator from Delaware, now before me, [Mr. BAYARD,] upon the propriety of a reprint of this book, it would have been a question of difficult solution; because, if they had been withheld, at a future day it might have been supposed that they were suppressed from tenderness to the memory of the gentleman who was assailed. A most unjust and unfounded inference might thus have arisen, had they been suppressed. I take it for granted, and if I am wrong the Senator from Maryland [Mr. PEARCE] will correct me, that the attention, neither of the committee or of any other, was called by Professor Washington to the propriety of publishing the *anas*, with the other papers. I therefore am not in possession of his reasons for having included them; but I can very well understand, knowing that gentleman, as I do, to be a man not only of correct taste, but of sound and judicious head, that if the question occurred to him as to the propriety of a reprint, he would have solved it by saying, "If it is withheld, the act may be deemed equivocal, and unfounded inferences may be drawn."

Mr. President , let none fear that what is recorded in those *anas*, after the refutation we have received to-day , will leave the slightest shade upon the memory of Bayard with posterity or in history ; and equally let none fear , who is interested for the memory of Mr. Jefferson , that it will leave upon the public mind , or upon the unwritten future , any other impression than regret , that so great a man should have left the world before he was disabused of this grave misconception , and had , himself , an opportunity to disclaim it.

Jan 1887

W. L. Wolf

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